

# **EXHIBIT E**

# B|E|S BRAGAR EAGEL & SQUIRE, P.C.

## **FIRM RESUME**

Bragar Eagel & Squire, P.C. is a firm engaged in sophisticated commercial and securities litigation. Our partners have strong professional backgrounds including extensive experience in all aspects of commercial litigation.

Although the firm is small in size, our broad range of experience and expertise allows us to take on almost any matter for our clients. Our attorneys have decades of experience litigating securities class actions, derivative matters and consumer rights actions, obtaining well over a billion dollars in recoveries for clients and class members.

## **OUR PRACTICE**

As a litigation specialty firm we handle a wide variety of matters. We deal with every aspect of a dispute in litigation from discovery through trial and appeal. The majority of the practice areas we handle can be summarized in the following categories:

- Alternative Dispute Resolution
- Bankruptcy and Insolvency-Related Litigation
- Class Actions, Securities and Derivatives
- General Commercial Litigation
- Real Estate and Construction Litigation

A more substantive discussion of each of these areas follows. In order to provide a better picture of the range of matters that we handle, each description is followed by a short list illustrating some of the representative matters we have handled in that area.

### **Alternative Dispute Resolution**

Our attorneys have significant experience arbitrating matters in various forums. Prior to commencing litigation, we work closely with our clients to determine the best venue to bring their claims, and we advise clients with respect to arbitration provisions in their contracts. We are also often retained by clients to challenge in court an adverse ruling the client received in arbitration. We have experience prosecuting FINRA arbitrations and other matters under the rules of the American Arbitration Association.

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### Representative Matters

- ***Roffler v. Spear Leeds & Kellogg***. New York Supreme Court, New York County. Successfully confirmed a \$1,250,000 arbitration award in favor of a client of a securities firm after two adverse trial court and one adverse appellate court decisions (reported at 13 A.D. 3d 308, 788 N.Y.S.2d 326 (1st Dept. 2004)). Prevailed on standard of review of arbitration awards.
- ***Cellier des Samsons v. Excelsior Wine & Spirits Corp.*** United States District Court for the Southern District of New York. Successfully vacated a default judgment for \$122,905 against client. Subsequently conducted a one-week international arbitration in Zurich, Switzerland, resulting in award of \$211,000 for client and dismissal of all claims that had led to the default judgment. Prevailed on standards for vacating default judgment and then on practices in the wine importing industry.
- ***Overlook Terrace Corp. v. Excel Properties Corp.*** Represented one shareholder of a corporation in suit against another shareholder and accountants for the corporation. Successfully interpreted the agreement between the parties and established that defendants committed corporate waste. Achieved a settlement with the accountants and a verdict for \$750,000 after a two-week arbitration trial before a retired New Jersey Supreme Court judge. Case was originally pending in the Superior Court, Bergen County, State of New Jersey.
- ***Sendor v. Hammer***, United States District Court for the Southern District of New York. After compelling arbitration by court order, obtained an arbitrator's award based on interpretation of parties' agreement that clients owned half of magazine and were entitled to \$700,000.
- **Confidential FINRA Arbitration**. Commenced arbitration against financial advisor with respect to the drafting and implementation of a Rule 10b5-1 stock trading plan. Matter settled for \$925,000 on the eve of arbitration.

### Bankruptcy and Insolvency-Related Litigation

Our knowledge of bankruptcy law and proceedings has helped us carve a niche in the often overlapping sphere of litigation. We have a particularly strong practice representing clients who have invested in companies undergoing reorganization. Because of our expertise, we have acted as bankruptcy counsel to other firms pursuing claims on behalf of their clients. We are also involved in more traditional aspects of reorganization and bankruptcy proceedings. For example, we have been appointed by creditors' committees to pursue claims for their benefit and the benefit of the estates in question. We are often retained by bankruptcy trustees and official committees to investigate and commence litigation arising out of financial misrepresentation and fiduciary breach claims.

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### Representative Matters

- ***In re Pitt Penn Holding Co.***, No. 09-11475 (Bankr. D.Del). Representing Industrial Enterprises of America, Inc. in 12 different adversary proceedings in the Bankruptcy Court, District of Delaware and one civil action in the United States District Court for the District of Colorado. Bragar Eagel & Squire, P.C., along with another firm, represents a trustee in bankruptcy of a company that was the subject of a major fraud, for which the two principals were convicted and jailed. We have pursued the thirteen actions against one hundred and twenty defendants for a variety of wrongdoings ranging from orchestrating and assisting the fraud to constructive fraudulent conveyance and unjust enrichment.
- ***In re Universal Automotive Industries, Inc.***, No. 05-27778 (Bankr. D.N.J.). Represented trustee and secured lenders in claims against former officers and directors. Case resolved favorably for plaintiffs.
- ***In re Acclaim Entertainment, Inc.***, No. 04-85595 (Bankr. E.D.N.Y). Represented trustee in litigation against former officers and directors. Case resolved favorably for trustee.
- ***In re Allou Distributors, Inc.***, No. 03-82321 (Bankr. E.D.N.Y). Represented trustee and secured lenders in claims against former officers and directors. Case resolved favorably for plaintiffs.
- ***In re Worldcom***, No. 02-13533 (Bankr. S.D.N.Y.). Represented patent owner in multimillion dollar claim for patent infringement. Case resolved favorably for client.
- ***In re Enron Corp.***, No. 01-16034 (Bankr. S.D.N.Y). Shareholders filed suit against a corporation that withdrew from a merger agreement with the debtor corporation seeking to enforce the merger agreement. Case was settled for \$6 million.
- ***Arbor Place, L.P. v. Encore Opportunity Fund, L.L.C.***, No. 20436 (Del. Ch. 2003). Investors in a hedge fund sued for misrepresenting the value of the investments. Case resolved favorably for plaintiffs.

### Class Actions, Securities & Derivative Actions

The core of our practice remains prosecuting class actions and derivative cases on behalf of shareholders and consumers. We have an active practice before the Delaware Court of Chancery and have achieved success before the Delaware Supreme Court litigating matters involving stockholder rights and the rights of limited partnerships. Our recent victory before the Delaware Supreme Court strengthens the rights of limited partners in public partnerships.

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We have a strong securities litigation practice, particularly notable given our relatively small size. We represent both plaintiffs and defendants in securities fraud and other cases involving alleged corporate mismanagement. We frequently represent shareholders who institute derivative and/or securities class actions. We have also been involved on the other side in securities defense work representing our clients in litigations alleging fraud as well as SEC investigations.

We also have a robust practice litigating claims on behalf of consumers. These matters include claims arising out of loyalty programs, student loan administration, and the federal Fair Credit and Reporting Act. Our attorneys are also knowledgeable about a wide-range of issues affecting the public, including Internet privacy laws, whistle-blower protections, and food labeling violations.

### Representative Matters

- ***In re Activision Blizzard, Inc. Stockholders Litigation***, No. 8885 (Del. Ch. 2013). Derivative settlement on eve of trial of \$275 million, by far the largest monetary settlement in the history of the Court of Chancery and the largest cash derivative settlement in the country. In addition, settlement provided significant corporate governance benefits to class.
- ***Gerber v. Enterprise Products Holdings LLC***, No. 5989 (Del. Ch. 2013). We served as lead counsel for derivative and class claims arising out of a variety of master limited partnership transactions, alleging that the general partner's approvals of the transactions were done in bad faith and in breach of the implied covenant of good faith and fair dealing. One action was settled by defendants agreeing to a merger that increased the value of the limited partnership units by approximately \$400 million. In another action, after the trial court dismissed the complaint, we prevailed before the Delaware Supreme Court to reinstate the claims for breach of implied covenant. The matters settled for \$12.4 million for the Master Limited Partnership unitholders.
- ***In re El Paso Pipeline Partners, L.P. Derivative Litigation***, No. 7141 (Del. Ch. 2011). We prosecuted claims on behalf of El Paso Pipeline Partners, L.P., a public Master Limited Partnership, against its general partner and its sponsor, El Paso Corporation (now merged into Kinder Morgan, Inc.). The claims arose out of the 2010 "drop down" of certain pipeline assets from the general partner to the partnership. After trial, the Court found that the Special Committee which recommended approval of the transaction did not believe that the transaction was in the best interests of the partnership and, therefore, that the general partner breached the partnership agreement by engaging in the transaction. The Court found that the Partnership was damaged in the amount of \$171 million.

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- ***Sateriale v. R.J. Reynolds Tobacco Co.***, No. 09-8394 (C.D. Cal.). United States District Court for the Central District of California. We brought claims against R.J. Reynolds Tobacco Co. (“RJR”) arising out of the Camel Cash Loyalty Program. The Ninth Circuit reversed the district court’s dismissal of the complaint, holding that RJR’s alleged communications concerning the Camel Cash program – “C-Notes” – constituted offers to enter into unilateral contracts. The Trial Court subsequently denied RJR’s motion for summary judgment, certified a California class and denied RJR’s motions to reconsider. A settlement agreement, approved by the Court, has been reached whereupon RJR will reopen the Camel Cash program for a period of six months, allowing participants of the program to each redeem up to 3,000 C-Notes in exchange for non-tobacco merchandise commensurate to the non-tobacco products offered by RJR during the lifetime of the program. The parties also agreed that RJR would pay plaintiffs’ attorneys’ fees and costs.
- ***Brinckerhoff v. Texas Eastern Products Pipeline Company, LLC.***, No. 2427 (Del. Ch. 2010). We brought claims on behalf of TEPPCO’s common unitholders claiming that in transactions orchestrated by TEPPCO’s general partner, TEPPCO had been shortchanged by hundreds of millions of dollars. The action was resolved by a merger which benefitted TEPPCO’s unitholders by more than \$400 million.
- **Bennett Funding Litigation.** Successfully served as co-lead counsel and special insurance counsel to plaintiff’s lead counsel in class actions in both the Federal District Court, Southern District of New York and the Bankruptcy Court of the Northern District of New York. Actions settled suits against Assicurazioni Generali, S.p.A. Company for \$125 million as reported at 258 B.R. 78 (Bankr. N.D.N.Y. 2000) and against Sphere Drake Insurance PLC for \$27.5 million, as reported at 439 F.3d 155 (2d Cir. 2006). The matter involved a Ponzi scheme and dealt with complicated issues of identification of beneficiary of insurance policies as well as the intersection of bankruptcy and securities laws and of equities between class members and creditors of the bankrupt estate.
- ***Trinad Capital Master Fund Ltd. v Majesco Entertainment Company, et al.***, No. 06-05265 (D.N.J.). United States District Court for the District of New Jersey. Represented hedge fund in opt-out securities fraud litigation against officers and directors of public company. Case resolved favorably for client.

### General Commercial Litigation

Our attorneys handle both plaintiff and defendant work encompassing all aspects of commercial litigation in traditional forums and through alternate dispute resolution. We have recently brought an arbitration against a national brokerage firm, prosecuted a consumer class action involving a marketing promotion, and defended a company and its founder against claims of fraud in connection with the sale of a high-tech start-up. Although frequently involved in trial practice, much of our work is consultative in nature. As such, we

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act in an advisory capacity or pre-litigation mode where we are attempting to solve business disagreements and partnership disputes without commencing a formal action. This often occurs when small businesses undergo a significant change such as a partnership split or business “divorce” or, in the case of a closely held business, a transition of ownership. Additional areas of focus include commercial contract actions and personal service contracts, both in negotiation and in contests questioning the parties’ adherence to contract terms. In this regard, we have been involved in several arbitration cases involving major sports teams. We also handle cases involving insurance disputes including contesting insurance valuations and coverage refusals.

### Representative Matters

- ***Dimension Trading Partners, LLC v. Jamie F. Lissette and Hammerstone NV, Inc.***, No. 650284/2013, New York Supreme Court, New York County. Defended proprietary trader against claim to collect on promissory note issued in connection with the establishment of trading relationship.
- ***Ator Limited v. Comodo Holdings Limited***, No. 12 -03083 (D.N.J.). Represented third-party defendants in dispute arising out of the sale of a start-up company.
- ***Financials Restructuring Partners v. Premier Bancshares, Inc.***, No. 651283/2013, New York Supreme Court, New York County. Defended former bank holding company against attempt to foreclose upon \$6 million in debt securities.
- ***Bellis v. Tokio Marine Insurance Company***, Procured a \$7 million settlement after obtaining a jury verdict on liability based on causation of damage in insurance claim. Also defeated a summary judgment motion reported at 2002 WL 193149 (S.D.N.Y.). The case involved attribution of liability for some priceless Tiffany glass that was damaged while on exhibit in Tokyo. Reported at 2004 WL 1637045 (S.D.N.Y.).
- ***Paquette v. Twentieth Century Fox***, Compelled Fox television to grant “created by/inspired by” credits to authors of comic book from which television series was adapted, establishing claim of reverse passing off, i.e. improperly taking credit for someone else’s work, under the Lanham Act. Reported at 2000 WL 235133 (S.D.N.Y.).
- ***Colton Hartnick Yamin & Sheresky v. Feinberg***, New York Supreme Court, New York County. Successfully reversed trial court’s denial of summary judgment to law firm on impropriety of claim of malpractice. On appeal, dismissed malpractice claim based on lack of facts to establish legal malpractice and punitive damages. Reported at 227 A.D.2d 233, 642 N.Y.S.2d 283.



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### Corporate/Partnership Disputes

- ***Mun v. Hong***, New York Supreme Court, New York County. Reversed a trial court's dismissal of complaint seeking damages from breach of a partnership agreement to acquire real property. Reported at 44 A.D.3d 534, 843 N.Y.S.2d 505.
- ***Levine v. Murray Hill Manor Company***, New York Supreme Court, New York County. Represented partnership and general partner and successfully dismissed claims brought by assignees of limited partnership by establishing that the assignees may not sue the partnership and partners. Reported at 143 A.D.2d 298, 532 N.Y.S.2d 130.
- ***Marks v. Zucker***, New York Supreme Court, New York County. Represented partnerships and corporations dismissing claims of stockholder for accounting by successfully interpreting corporate law remedies and necessary parties to action. Reported at 118 A.D.2d 452, 499 N.Y.S.2d 740.

### Real Estate and Construction Litigation

We have extensive experience with the issues facing real estate developers today, including construction, zoning and financing. Currently, we represent a large commercial developer in the greater New York Metropolitan area. We deal with a range of cases involving real estate including foreclosures, coping with regulatory restrictions, other potential lease or development limitations and restructurings. We also deal with the more traditional aspects of commercial real estate such as lease negotiations and establishing the ownership structure of a development.

### Representative Matters

- ***Shmueli v. NRT N.Y., Inc.***, New York Supreme Court, New York County. Obtained reversal of punitive damages award. Reported at 107 A.D.3d 465.
- ***325 Schermerhorn LLC, et. al. v. Nevins Realty Corp. et. al.***, New York Supreme Court, Kings County. We prevailed on summary judgment to compel defendants to pay \$3.6 million plus interest representing a returned down payment on four properties. Reported decision at 23 Misc. 3d 1109(A), 886 N.Y.S.2d 69 (Sup. Ct., Kings Cty.); Affirmed 76 A.D.3d 625, 906 N.Y.S.2d 339.
- ***LeNoble Lumber Company v. 525 West 52nd St. LLC.***, New York Supreme Court, New York County. Represented minority owner asserting right of first refusal to purchase the balance of the building. Obtained a seven figure settlement.



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- ***Jasinski v. City of New York***, New York Supreme Court, New York County. Reversed a trial court decision by prevailing on construction of indemnification clause in condominium documents to show that sponsor/owner of a condominium unit had been indemnified by condominium for personal injury sustained on a treewell in an adjacent sidewalk. Reported at 290 A.D. 2d 237, 735 N.Y.S.2d 126 (1st Dept. 2002).
- ***Menorah Nursing Home v. Zukov***, New York Supreme Court, Kings County. Obtained a \$2,000,000 settlement for a nursing home after six weeks of trial for defective masonry construction arising from \$180,000 contract.
- ***West Broadway Glass Co. v. I.T.M. Bar, Inc.***, New York Supreme Court. Obtained reversal of an Appellate Term decision that upheld a trial court's determination to abate rent entirely as a result of floods on commercial premises and remanded for calculation of actual damages. Reported at 245 A.D.2d 232, 666 N.Y.S.2d 629 (1st Dept. 1997).
- ***Sullivan Realty Company v. Rowan***, New York Supreme Court, Sullivan County. In a zoning case, won a trial and appeal to recover security deposit on land purchased for a 425 unit development by proving that the purchaser diligently attempted to obtain local government approvals, even though it failed to do so. Reported at 234 A.D.2d 701, 650 N.Y.S.2d 858 (3rd Dept. 1996) and 189 A.D.2d 1084, 593 N.Y.S.2d 102 (3rd Dept. 1993).
- ***Berman & Brickell v. The Penn Central Corp.***, United States District Court for the Southern District of New York. Won a non-jury trial dismissing a multimillion dollar claim by broker against Penn Central, the owner of a Park Ave. building, proving that the broker was not the procuring cause of a lease of the space in the Federal District Court, Southern District of New York, and sustained the dismissal on appeal. Reported at 1986 U.S. Dist. LEXIS 21217.
- ***Hillman v. Penn Central Corp.***, New York Supreme Court, Chemung County. Prevailed on interpretation of General Obligations Law recreational immunity to dismiss severe personal injury brought against a railroad. Successfully reversed trial court's denial of summary judgment. Reported at 204 A.D. 902, 612 N.Y.S.2d 489 (3rd Dept. 1994).
- ***Marks v. Zucker***, New York Supreme Court, New York County. Obtained dismissal of core claims in partnership dispute involving numerous Manhattan buildings. Reported at 118 A.D.2d 452, 499 N.Y.S. 2d 740 (1st Dept. 1986).

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### OUR ATTORNEYS



#### **Raymond A. Bragar**

Ray Bragar started the firm in 1983 and practices general litigation with a sub-specialty in real estate and real estate litigation. He has over thirty years of experience practicing in New York State and Federal Courts. He has handled complex trials before juries and judges lasting several weeks and numerous appeals in both the State and Federal Courts. He also has extensive experience working in the nontraditional forums of alternate dispute resolution, including multiple-week trials.

Following graduation, Ray was law clerk to the Hon. Lloyd F. McMahon who was then Chief Judge for the United States District Court for the Southern District of New York. He also previously worked for the firm of Rosenman & Colin, LLP.

Ray is admitted in New York State, as well as in the United States District Courts for the Southern, Eastern, and Northern Districts of New York, the Second and Fourth Circuit Courts of Appeals, the District of Columbia Court of Appeals and the United States Supreme Court. He is a member of the American Bar Association, Litigation Section, the Association of the Bar of the City of New York, and the New York State Bar Association, where he has been a member of the Civil Practice Law & Rules Committee since 1985.

Ray is a 1972 graduate, *cum laude*, of the Harvard Law School and is a 1968 graduate *magna cum laude* of Rutgers University.

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**Lawrence P. Eagel**

Larry Eagel is a partner in the firm and joined in 1994. Larry handles all types of litigation, but is particularly skilled in the areas of securities and bankruptcy related litigation, including class actions. Prior to 1994, he was associated with the firm of Proskauer Rose LLP. Larry was also a certified public accountant, and worked in the late 1970's as an auditor with Grant Thornton & Co. (formerly Alexander Grant & Co.) in the firm's Washington, D.C. office.

Larry is admitted in New York State and New Jersey and the United States District Court for the Southern, Eastern, and Northern Districts of New York, the United States District Court for the District of New Jersey, the Second and Third Circuit Courts of Appeals and the United States Tax Court. He is also a member of The Association of the Bar of the City of New York, where he was a member of the Committee on Federal Legislation from 1993-1997.

Larry is a 1983 *cum laude* graduate of the Brooklyn Law School, where he was a Comments Editor of the *Brooklyn Law Review*. He completed his undergraduate work at George Washington University in 1978, where he also earned an M.B.A. in 1980.

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**Jeffrey H. Squire**

Jeffrey H. Squire is a partner in the firm. He is a graduate of Amherst College (B.A., cum laude, 1973) and the University of Pennsylvania (J.D. 1976) and is admitted to the bars in New York and Pennsylvania as well as the U.S. District Courts for the Southern, Eastern, and Northern Districts of New York and the U.S. Court of Appeals for the Second, Third, Seventh, and Ninth Circuits. Jeff was previously a partner at Kirby, McInerney & Squire LLP and Of Counsel to Wolf Popper LLP. Mr. Squire, as lead or co-lead counsel, has prosecuted scores of class and derivative actions on behalf of the shareholders of many corporations, including: Adelphia Communications Corporation, AT&T Corporation, Bennett Funding Group, Bisys Group, Inc, eBay, Inc., Ford Motor Company, The Limited Corporation, Morrison Knudsen, Washington Group, Inc., Waste Management, Inc., and Woolworth, Inc. In such cases, he has recovered over one billion dollars for the shareholders he has represented.

Mr. Squire's ability to prosecute sophisticated class actions successfully has often been the subject of judicial recognition:

"You have acted the way lawyers at their best ought to act. And I have had a lot of cases in 15 years now as a judge and I cannot recall a significant case where I felt people were better represented than they are here... I would say this has been the best representation that I have ever seen." *In re Waste Management, Inc. Securities Litigation*.

"Nonetheless, in this Court's experience, relatively few cases have involved as high level of risk, as extensive discovery, and, most importantly, as positive a final result for the class members as that obtained in this case." *In re Bisys Securities Litigation*.

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**David J. Stone**

David J. Stone is a partner in the firm, having joined in May 2011. David has extensive experience litigating all types of commercial matters, including securities, mortgage-backed securities, and consumer class actions. Prior to joining the Firm, David was associated with Greenberg Traurig LLP, Morrison & Foerster LLP, and Cravath Swaine & Moore LLP.

David is a member of the bars of the State of New York and the State of California (inactive). He is admitted to practice before the United States District Courts for the Southern and Eastern Districts of New York, the Northern District of California, and the United States Court of Appeals for the Second Circuit.

David is a 1994 graduate of the Boston University School of Law, where he was an editor of the Law Review. He received his undergraduate degree in Philosophy from Tufts University.

Following graduation, David was law clerk to the Hon. Joseph L. Tauro who was then Chief Judge for the United States District Court for the District of Massachusetts.



**J. Brandon Walker**

J. Brandon Walker is a partner in the firm. Before joining the firm in 2015, Brandon was a partner at Kirby McInerney LLP. Brandon has a broad background in securities fraud, corporate governance and other complex class action and commercial litigation on behalf of shareholders. He has represented public retirement systems, union pension funds, European investment managers, and other institutional and individual investors before federal, state, and appellate courts throughout the country.

Brandon is a member of the bars of the State of New York and the State of South Carolina. He is admitted to practice before the United States District Courts for the Eastern and Southern Districts of New York and the United States Courts of Appeals for the First, Second, and Sixth Circuits.

Brandon is a 2008 graduate of Wake Forest University School of Law with an MBA from the Wake Forest University Graduate School of Management. He completed his undergraduate work at New York University.



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**Todd H. Henderson**

Todd has an extensive background in shareholder derivative litigation. Many of his cases have involved breaches of fiduciary duties by public company boards of directors related to the payment of excessive compensation to executive officers, violations of the Foreign Corrupt Practices Act, and violations of the False Claims Act. He has represented institutional and individual shareholders in the mediation and settlement of numerous derivative actions and has significant experience in general litigation matters, including court appearances, depositions, complex document review, and accident site inspections. He focuses his practice on securities fraud, corporate governance, and other complex class action and commercial litigation on behalf of shareholders.

While attending law school, Todd was an Associate Managing Editor of the Brooklyn Journal of International Law. His note, "The English Premier League's Home Grown Player Rule under the Law of the European Union" was published in the Fall 2011 edition of the Brooklyn Journal of International Law (37 Brook. J. Int'l L. 259 (2011), Available at: <http://brooklynworks.brooklaw.edu/bjil/vol37/iss1/6>). Prior to attending law school, Todd gained experience as a paralegal for the Internal Revenue Service, Office of Chief Counsel. Todd is a 2012 graduate of Brooklyn Law School and a 2007 graduate of Cornell University.

Todd is admitted in New York State and the United States District Courts for the Eastern and Southern Districts of New York.



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**Derek Scherr**

Derek Scherr is an associate with the firm. Derek practices commercial litigation involving contract disputes, commercial and residential real estate, partnership disputes, business fraud, and bankruptcy litigation.

Derek is a 2013 graduate of the Benjamin N. Cardozo School of Law. He received a B.A. in history from New York University in 2010.

Derek is admitted in New York State.